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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,451	07/22/2003	Robert J McCarthy	tks-001	1450
31285	7590	12/06/2004	EXAMINER	
ROBERT J. MCCARTHY 28 HATCH ST EVERETT, MA 02149				MULL, FRED H
ART UNIT		PAPER NUMBER		
		3662		

DATE MAILED: 12/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/604,451	MCCARTHY, ROBERT J	
	<b>Examiner</b> Fred H. Mull	<b>Art Unit</b> 3662	<i>MH</i>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 16 November 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 4-10, 12 and 14 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 4-10, 12 and 14 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

1. An examination of this application reveals many errors, indicating that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is strongly advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

### ***Claim Objections***

2. Claims 4-10, 12, and 14 are objected to because they include reference characters which are not enclosed within parentheses. Specifically, the reference character is patent number 6,204,813.
3. Claim(s) 14 is/are objected to under 37 CFR 1.75. The claim(s) recites the limitation "the live or requested data" in line 2. There is insufficient antecedent basis for this limitation in the claim. Correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Regarding claim 4, line 6; claim 4, line 18; claim 9, line 5; and claim 9, line 16, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claims 5-8, 10, 12, and,14 depend on rejected claims 4 and 9.

5. Reference to a patent number in the claims is improper. A patent claim must make clear the boundaries of the subject matter for which protection is sought. See MPEP § 2173.01. It is unclear what subject matter from patent number 6,204,813 is being included in the claims. Applicant is advised that the proper course of action is to write out in words what limitations he intends to be included in the claims.

6. System claim 4 fails to claim any structure. A system claim is not appropriate for claiming a computer readable medium for storing a computer program. The proper way to claim a medium for storing a computer program is a claim that is something like: "A computer readable medium containing instructions for performing:" whatever the steps are. Alternatively, applicant can simply claim something like: "A computer readable medium containing instructions for performing the steps in the method as recited in claim 9".

See MPEP 2106 for more guidance on the proper manner for claiming a computer program.

7. Method claim 9 is unclear. The examiner would like to suggest rewording the claim along the lines: "A method comprising the steps: (1) ..., (2)..., etc."

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4-10, 12, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richards, previously cited, in view of IDS document Mindes.

In regard to claim 4, Richards discloses using object location data (col. 1, lines 45-52; col. 3, lines 12-21; col. 24, line 53 to col. 25, line 8) as inputs to mathematical formulations for gaming and wagering applications (col. 21, lines 43-67).

Richards fails to disclose the use of conditional, derivative, and/or combinational bets.

Mindes discloses using a conditional bet in a gaming and wagering application (col. 21, lines 4-25).

It would have been obvious to include the known conditional betting of Mindes into Richards in order to providing an increased number of situations to bet on and thus get more money bet into the system.

9. Claims 4-10, 12, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richards, previously cited, in view of Aronson.

In regard to claim 4, Richards discloses using object location data (col. 1, lines 45-52; col. 3, lines 12-21; col. 24, line 53 to col. 25, line 8) as inputs to mathematical formulations for gaming and wagering applications (col. 21, lines 43-67).

Richards fails to disclose the use of conditional, derivative, and/or combinational bets.

Aronson discloses using a conditional bet in a gaming and wagering application (¶ 11, 89, 99-100, 110-112).

It would have been obvious to include the known conditional betting of Mindes into Richards in order to providing an increased number of situations to bet on and thus get more money bet into the system.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

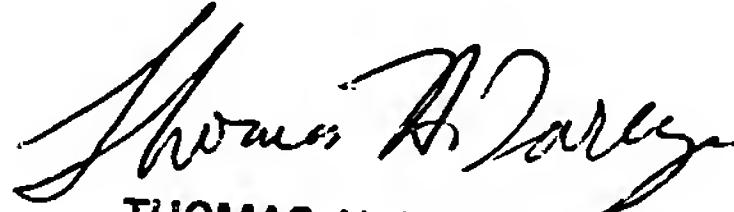
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred H. Mull whose telephone number is 703-305-1250. The examiner can normally be reached on M-F 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas H Tarcza can be reached on 703-360-4171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Fred H. Mull  
Examiner  
Art Unit 3662

fhm



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